

under the vacancy reduction program; and

(4) Made reasonable progress in meeting the goals established in its vacancy reduction plan.

(b) *Notice of deficiency.* If HUD finds any deficiency in a review of a grantee's performance under this part, HUD may issue to the grantee a notice of deficiency stating the specific program requirements that the grantee has violated and requesting the grantee to take corrective action.

(c) *Corrective action order.* (1) *Issuance.* If HUD finds any of the deficiencies listed in paragraph (c)(3) of this section in its review of the grantee's performance, HUD may issue to the grantee a corrective action order, whether or not a notice of deficiency has previously been issued on the specific deficiency. The corrective action order shall notify the grantee of the specific program requirements that the grantee has violated and shall specify the corrective action.

(2) *Consultation with grantee.* Before ordering corrective action, HUD will give the grantee an opportunity to consult with HUD regarding the proposed action.

(3) *Bases for corrective action.* HUD may order a grantee to take corrective action only if HUD determines:

(i) The grantee has not submitted a performance report as required by HUD;

(ii) The grantee has not carried out activities under its vacancy reduction program in a timely manner and in accordance with HUD requirements;

(iii) The grantee does not have continuing capacity to carry out activities in its vacancy reduction plan; or

(iv) An audit conducted in accordance with 24 CFR part 44, or pursuant to other HUD reviews, reveals deficiencies that HUD reasonably believes require corrective action.

(d) *Nature of corrective action.* (1) HUD shall design corrective action to prevent a continuation or recurrence of the same or a similar deficiency or to mitigate to the greatest extent feasible any adverse effects of the deficiency.

(2) HUD may order a grantee to take the corrective action that HUD determines appropriate for carrying out the elements of the vacancy reduction

plan. Corrective action may include, but is not limited to, suspension of grantee's authority to incur costs against the vacancy reduction funding and reimbursement, from sources other than HUD funds, of any amount spent improperly.

(e) *Failure to take corrective action.* In cases where HUD has ordered corrective action and the grantee has failed to take the required action within a reasonable time, as specified by HUD, HUD may take one or more of the following steps:

(1) Withhold vacancy reduction funds from the grantee;

(2) Declare a breach of the ACC by the grantee; and

(3) Any other sanctions authorized by law or regulation.

§ 968.428 Program closeout.

(a) *Requirements for grantees.* Upon completion of the activities funded in accordance with this part, the grantee shall submit to HUD, and in a form prescribed by HUD, the actual modernization cost certificate for HUD's review, audit verification, and approval. The grantee shall immediately remit any excess funds provided by HUD. If the audited modernization cost certificate discloses unauthorized expenditures, the grantee shall take such corrective actions as HUD may direct.

(b) *Audit.* The audit shall follow the guidelines prescribed in 24 CFR part 44, Non-Federal Government Audit Requirements.

(Approved by the Office of Management and Budget under control number 2577-0181)

§ 968.435 Other program requirements.

In addition to the program requirements applicable to this subpart under § 968.110, each PHA participating in the vacancy reduction program under this subpart shall:

(a) Certify that any modernization, reconstruction, or rehabilitation activities that are funded under this subpart will be undertaken in accordance with modernization standards, as set forth in HUD Handbook 7485.2, as revised;

(b) Certify that activities undertaken within vacant units will bring the affected vacant units into compliance with the Housing Quality Standards, as

set forth in 24 CFR 882.109 and amended by the regulations concerning lead-based paint in public housing at 24 CFR part 35; and

(c) Provide for resident involvement, in a manner to be determined by the Secretary, in the process of applying for any funding available under this part.

PART 969—PHA-OWNED PROJECTS—CONTINUED OPERATION AS LOW-INCOME HOUSING AFTER COMPLETION OF DEBT SERVICE

Sec.

969.101 Purpose.

969.102 Applicability.

969.103 Definitions.

969.104 Continuing eligibility for operating subsidy.

969.105 Extension of ACC upon payment of operating subsidy.

969.106 ACC extension in absence of current operating subsidy.

969.107 HUD approval of demolition or disposition before ACC expiration.

AUTHORITY: United States Housing Act of 1937 (42 U.S.C. 1437, *et seq.*); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

SOURCE: 45 FR 52372, Aug. 7, 1980, unless otherwise noted. Redesignated at 49 FR 6714, Feb. 23, 1984.

EDITORIAL NOTE: Nomenclature changes affecting this part appear at 49 FR 6714, Feb. 23, 1984.

§ 969.101 Purpose.

This part provides a basis for maintaining the low-income nature of a public housing project after the completion of debt service on the project, specifying methods for extending the effective period of those provisions of the Annual Contributions Contract (ACC) which relate to project operation. Such an extension provides a contractual basis for the continued operation of the project under the Low-Income Public Housing Program, including continued eligibility for Operating Subsidy.

§ 969.102 Applicability.

This part applies to any low-income public housing project that is owned by a Public Housing Agency (PHA), in-

cluding any Turnkey III housing, and is subject to an ACC under section 5 of the United States Housing Act of 1937 (Act). This part does not apply to the Section 8 and Section 23 Housing Assistance Payments Programs, the Section 10(c) and Section 23 Leased Housing Programs, Lanham Act and Public Works projects that remain under administration contracts, or Indian Housing projects.

[56 FR 922, Jan. 9, 1991]

§ 969.103 Definitions.

(a) "ACC expiration date" means the last day of the term during which a particular public housing project is subject to all or any of the provisions of the ACC. The ACC term for a particular project expires at the latest of:

(1) The end of the "Debt Service Completion Date," which is the last day of a one-year period beginning with, and inclusive of, the last debt service Annual Contribution Date for the project, as determined under the ACC (e.g., if the last debt service Annual Contribution Date is June 15, 1983, the one-year period continues through the end of the day on June 14, 1984, which is the Debt Service Completion Date); or

(2) The end of the date of full repayment of any indebtedness of the PHA to the Federal government in connection with the project; or

(3) The end of the last date of an extension of the term of the ACC provisions related to project operation, as effected under § 969.105 or § 969.106.

(b) "Operating subsidy" means additional annual contributions for operations under section 9 of the Act.

§ 969.104 Continuing eligibility for operating subsidy.

Until and after the Debt Service Completion Date for any project, HUD shall pay Operating Subsidy with respect to such project only in accordance with an ACC amendment providing for extension of the term of the ACC provisions related to project operation, pursuant to § 969.105 or § 969.106. The ACC amendment shall be in the form prescribed by HUD and shall specify the particular provisions of the ACC which relate to continued project